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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 LARRY LEE RUSSELL, JR.,

12 Plaintiff,

13 v.

14 CONTRA COSTA COUNTY  
15 MARTINEZ DETENTION FACILITY,  
16 et al.,

17 Defendants.

No. C 14-05469 HRL (PR)

**ORDER OF DISMISSAL WITH  
LEAVE TO AMEND**

18 Plaintiff, a state prisoner at Pelican Bay State Prison, filed an civil rights action  
19 pursuant to 42 U.S.C. § 1983. After dismissing the action for failure to pay the filing fee,  
20 the Court provided Plaintiff another opportunity to file an In Forma Pauperis Application  
21 to reopen the matter. (Docket No. 31.) Plaintiff did so, along with an amended  
22 complaint. (Docket Nos. 32 & 33.) The Court granted Plaintiff pauper status and ordered  
23 the matter reopened on August 31, 2015. (Docket Nos. 36 & 37.)  
24

25 **DISCUSSION**

26 **A. Standard of Review**

27 A federal court must conduct a preliminary screening in any case in which a  
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1 prisoner seeks redress from a governmental entity or officer or employee of a  
 2 governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify  
 3 any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a  
 4 claim upon which relief may be granted or seek monetary relief from a defendant who is  
 5 immune from such relief. See id. § 1915A(b)(1),(2). Pro se pleadings must, however, be  
 6 liberally construed. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir.  
 7 1988).

8 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential  
 9 elements: (1) that a right secured by the Constitution or laws of the United States was  
 10 violated, and (2) that the alleged violation was committed by a person acting under the  
 11 color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988).

#### 12 **B. Plaintiff's Claim**

13 In the caption of the amended complaint, Plaintiff wrote in "Contra Costa County  
 14 Martinez Detention Facility" and "Thomas Maddock Judge." (Docket No. 32 at 1.) In  
 15 the statement of claim, Plaintiff wrote the following, "False Imprisonment. Double  
 16 Jeopardy. Mental health CCCMS." (Id. at 3.) As such, the amended complaint is  
 17 deficient because Plaintiff has failed to describe how the named defendants specifically  
 18 acted to violate his rights. He will be granted leave to amend to address this deficiency.

19 In preparing an amended complaint, Plaintiff must allege sufficient facts indicating  
 20 what federal rights that were violated how specific defendant(s) under color of law acted  
 21 to deprive him of those rights. Liability may be imposed on an individual defendant  
 22 under 42 U.S.C. § 1983 if the plaintiff can show that the defendant proximately caused  
 23 the deprivation of a federally protected right. See Leer v. Murphy, 844 F.2d 628, 634 (9th  
 24 Cir. 1988); Harris v. City of Roseburg, 664 F.2d 1121, 1125 (9th Cir. 1981). A person  
 25 deprives another of a constitutional right within the meaning of section 1983 if he does an  
 26 affirmative act, participates in another's affirmative act or omits to perform an act which  
 27 he is legally required to do, that causes the deprivation of which the plaintiff complains.  
 28 See Leer, 844 F.2d at 633 (inquiry into causation must be individualized and focus on the

1 duties and responsibilities of each individual defendant whose acts or omissions are  
 2 alleged to have caused a constitutional deprivation). Even at the pleading stage, “[a]  
 3 plaintiff must allege facts, not simply conclusions, that show that an individual was  
 4 personally involved in the deprivation of his civil rights.” Barren v. Harrington, 152 F.3d  
 5 1193, 1194 (9th Cir. 1998).

### 7 CONCLUSION

8 For the foregoing reasons, the Court orders as follows:

9 1. The complaint is DISMISSED with leave to amend. Within **twenty-eight**  
 10 **(28) days** of the date this order is filed, Plaintiff shall file a second amended complaint  
 11 using the court’s form complaint. The second amended complaint must include the  
 12 caption and civil case number used in this order – Case No. C 14-05469 HRL (PR) – and  
 13 the words “SECOND AMENDED COMPLAINT” on the first page. Plaintiff must  
 14 answer all the questions on the form in order for the action to proceed. The second  
 15 amended complaint will completely supersede the original and amended complaints, and  
 16 Plaintiff may not make references thereto.

17 **Failure to respond in accordance with this order by filing a second amended**  
 18 **complaint in the time provided will result in the dismissal of this action without**  
 19 **prejudice and without further notice to Plaintiff.**

20 The Clerk shall include two copies of the court’s complaint with a copy of this  
 21 order to Plaintiff.

22 **IT IS SO ORDERED.**

23  
 24 DATED: 9/21/15

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 HOWARD R. LLOYD  
 United States Magistrate Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LARRY LEE RUSSELL, JR.,  
Plaintiff,

Case Number: CV14-05469 HRL

**CERTIFICATE OF SERVICE**

v.

CONTRA COSTA COUNTY MARTINEZ  
DETENTION FACILITY, et al.,

Defendants.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 9/21/15, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Larry Lee Russell AR8643  
Pelican Bay State Prison  
A-1-113  
P.O. Box 7500  
Crescent City, CA 95532

Dated: 9/21/15

*P. Cromwell, deputy*  
Susan Y. Soong, Clerk